

Seattle City Clerk's Office
Clerk File 304446

Item No: arc3136

Title: Recommendations for Changes in Seattle Police
Operations to Improve Accountability and the
Complaint Review Process

Author(s): American Civil Liberties Union (ACLU)

Physical description: 12 p.

Original doc date: Jul 10, 1992

Is attachment to (doc#): arc 3133

Belongs to set: N/A

File name: ARC 28, Unsorted: Files of Alec Fisk 1

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American Civil Liberties Union
of Washington

**Recommendations for Changes in
Seattle Police Operations To Improve Accountability
and the Complaint Review Process
July 10, 1992**

Since the earliest of colonial times, there has always been a deep-seated, public concern about the necessary but awesome powers we delegate to police officers -- powers to investigate, interrogate, detain, arrest, and, most especially, the power to fatally apprehend citizens. In a free and democratic society, these are powers which cannot be permitted to be exercised without the maximum amount of public accountability.

Hubert G. Locke
Dean Emeritus and Professor, Graduate
School of Public Affairs, University of
Washington (Speech presented on
September 13, 1984)

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RECOMMENDATIONS FOR CHANGES IN
POLICE OPERATIONS TO IMPROVE ACCOUNTABILITY
AND THE COMPLAINT REVIEW PROCESS

The jury verdict in the police beating of Rodney King and the aftermath of violence that swept south central Los Angeles have directed renewed attention to police conduct, including in Seattle.

Concern about police practices in Seattle did not, however, begin with the incidents in Los Angeles. For the past five years the City of Seattle has been faced with a growing public concern about police/community relations, and in particular the Seattle Police Department's inadequate response to allegations of police abuse.

The incidents in Los Angeles should remind us that effective law enforcement depends on the trust, confidence and respect of the community it serves. No police department can effectively serve the community as a whole when a significant portion of its population is substantially alienated from it.

INTRODUCTION

This report proposes a number of concrete steps that the Mayor and City Council can take to instill community confidence in our Police Department. Most of the proposals are not new. Many were earlier recommended by the City's own studies: the 1989 M.M. Bell Study ("Internal Complaint Handling: A Review and Evaluation") prepared for the Seattle Office of Management and Budget and the 1990 Seattle Human Rights Commission Report Regarding the Monitoring and Investigation of Citizen Complaints of Police Harassment.

The proposals center on the simple truth stated eloquently on the cover by Dr. Hubert G. Locke that in a free and democratic society, the powers of police must be balanced with a maximum amount of public accountability. The Seattle Police Department is the only city agency whose employees are armed, authorized, and licensed to use force -- deadly force when necessary -- on citizens. The complaints against those officers should be subject to open and fair investigation by parties trusted by the public.

The report's recommendations focus on two critical components of police accountability that are especially weak in Seattle: an open police complaint process and thorough police management in tracking and responding to complaints.

The "deep and disturbing lack of trust" toward the police cited by the Seattle Human Rights Commission 1990 report will not change until the City of Seattle transforms the existing complaint process from one that is closed and secretive to one that is open and accountable. An open process will not only help ensure that police officers who violate the public trust are held accountable, but it will create an environment in which community trust in the police can flourish. As Seattle's nationally acclaimed Block Watch program so successfully demonstrated, effective law enforcement depends on the trust and cooperation of the communities served. Recommendations 1 - 4 address this concern.

In order for police management to assure professionalism and high quality of performance of police officers, it must have adequate information with which to work. Recommendations 5 - 8 suggest improvements in the tracking of police misconduct allegations and the Police Department's response to them.

A WORD ABOUT THE POLICE GUILD CONTRACT

Some of the proposed recommendations may require changes in the City's contract with the Seattle Police Officer's Guild. The contract is currently under negotiation. While the ACLU supports the due process rights of police officers, the current contract provisions overly restrict management's ability to ensure a professional and responsible force. The contract's terms should be modified to ensure that the recommendations below can be implemented.

RECOMMENDATIONS

1. Make it easier for citizens to make a complaint.

An initial step is being taken. The Internal Investigations Section (IIS) brochure is currently being rewritten, and we have offered substantive language for the brochure. The new brochure should be in plain English and should avoid police jargon. It should also be written in other languages spoken by Seattle residents.

Distribution of the brochure should be broad. It should be available at social service agencies, community centers and other places people congregate. As the Bell Study suggested, the complaint process should be recast as a quality assurance program. The Police Department should promote the fact that it is interested in community views of its work.

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Beyond describing the process, the brochure should include, as an integral part, a complaint form that citizens can complete and send to the Internal Investigations Section. The Department currently uses a complaint form for in-house use only. Rather than limiting this form's use to police personnel, it should be part of the citizen complaint brochure.

2. Give the complainant access to information about the investigation.

In order to have confidence in the system, individuals need to be able to review the information used by the Police Department in its investigation or its decision not to investigate.

When notified about the resolution of the complaint, the complainant should receive a copy of the Complaint Report, Follow-Up Report, investigative report, or a summary that includes a list of the witnesses interviewed, a description of their statements and a description of any evidence examined.

A number of cities with some form of civilian review -- such as Dayton, Ohio, Washington, D.C. and Cambridge, Massachusetts -- go much further. Those cities provide general public access to information about the complaints and investigations of police abuse. Such public access further helps to ensure accountability. In the absence of a policy permitting access to the general public, complainants should be provided sufficient information about the investigative process to be able to determine that the complaint was fairly and impartially reviewed.

3. Provide the citizen with reasons when a complaint is not investigated.

According to the Bell Study, only twenty-five percent of the total number of complaints filed with the police department are actually investigated. Complaints that are considered minor or involve allegations that depend on taking one person's word over another's generally are not investigated. These uninvestigated complaints are called "contact log complaints." They are entered into a "contact log" and the complainant's name is added to a card catalog.

Investigated complaints fall into two categories: line referrals and internal investigation complaints. Line referral complaints are investigated by the officer's supervisor rather than the IIS. Both categories of complaints result in case files and, if they are sustained, will be noted in the officer's files.

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The brochure produced by the Police Department to explain the complaint handling process is misleading because it states that all complaints are investigated. Since this is clearly not the case, the Police Department should be up-front about its process and should be prepared to explain why all complaints cannot be investigated. There may be sound reasons for relegating a complaint to the contact log category. These reasons should be explained to the complainant.

4. Inform complainant about disciplinary action when a complaint is sustained.

When a complaint is investigated and found to have merit, the complainant should be informed about the disciplinary action taken against the officer. Aside from labor contract impediments, there is no justifiable reason for keeping the victim of a sustained finding of misconduct in the dark about the disciplinary actions taken against the officer. In fact, compelling public policy reasons would dictate that a city seriously intent on building public trust in the complaint review process must provide at least this information.

It is understandable that the offending officer will prefer to maintain the confidentiality of any disciplinary action taken against him. It is more important, however, for the City of Seattle to promote confidence in its complaint review process. If the Chief of Police is taking appropriate disciplinary actions against officers, he should be willing, indeed pleased, to share this information with the complainant as a means of validating the process. The absence of such disclosure casts a dark shadow of distrust on the fairness and impartiality of the system.

5. Compile and analyze data about uninvestigated "Contact Log Complaints."

Currently, uninvestigated complaints are simply entered in a log. There are no written criteria for determining when a complaint will not be investigated. No information is kept on the reasons why a complaint was not investigated.

In response to recommendations in the Bell Study, the Police Department has agreed to conduct a semi-annual review of the contact log and to categorize complaints by nature or type. These reports will be submitted to the Chief of Police. These reports should also be submitted to the Mayor and City Council.

While the semi-annual review is a step in the right direction, unless the Police Department creates a more meaningful base of information in the first place, the reports will not be significantly useful.

As mentioned earlier, when a complaint is not investigated, the reasons for making this decision should be provided. In addition, all complaint forms and/or letters submitted by the complainant should be treated as a record and retained in department files. There currently is no record system for maintaining documents of this kind. This results in the loss of valuable information that could otherwise be assessed.

6. Extend the life of Internal Investigations files and sustained complaints.

The current police department bargaining agreement provides for destruction of Internal Investigations files after three years plus the year the investigation was begun. Written reprimands of sustained complaints in an officer's personnel file may be expunged after three years. The Bell Study recommended that this period be extended to seven years because the current short retention period makes it difficult to track recurrent problems. We wholeheartedly agree.

The Bell Study pointed out that the number of officers involved in investigated complaints is high, but the number of officers known to have been involved in multiple complaints is low. It is low partly due to the short retention period which precludes the Seattle Police Department or other city officials from effectively tracking police conduct over time.

For example, an officer with 20 years on the force could have six investigated and six sustained complaints for use of excessive force, and there would be no record unless an investigation was still pending.

7. Include "Contact Log Complaints" in an officer's personnel file.

Complaints that the Police Department chooses not to investigate are noted in a complaint log, statistically compiled, then essentially disregarded. Only complaints that are investigated are placed in an officer's file.

The ACLU endorses the Bell Study recommendation that all complaints against an officer be placed in the officer's personnel file, including contact log complaints. Complaints that have not been investigated can be so noted. Clearly, in order to protect an officer's due process rights, the unsubstantiated complaints should not be used as the basis for discipline. And, as with any

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entry into personnel files, an officer should have the right to enter a statement commenting on the complaint. A pattern of complaints, however -- whether substantiated or not -- may point to a training or performance problem that should be dealt with administratively.

Because few complaints are actually investigated by the Internal Investigations Section, a full picture of an officer's conduct cannot necessarily be gleaned from a review of an officer's personnel file.

The police guild contract may be implicated in this recommendation, for it makes no provision for including contact log complaints in an officer's personnel file. The Bell Study explicitly recommended changing the contract for this purpose.

8. Develop "Early Warning" Administrative Review System.

The Police Department should be required to develop an "early warning system" to help identify officers who may have problems dealing with the public. The Kansas City Police Department's successful program offers a useful model.

Need for the system. The Bell Study found that, over a three-and-a-half-year period, 18 officers were the subject of an average of 10 investigated allegations each. (These do not include the uninvestigated complaints, which comprise about 75 percent of all complaints filed.) Forty percent of these allegations involved the use of force.

Although these officers represent only 1.4 percent of the sworn personnel in 1990, they were the subject of 18 percent of all use of force allegations from 1986 through 1988. Fifteen of the eighteen officers against whom use of force allegations were made had an average of 4.6 force complaints each.

These statistics support the need for an early warning system so that officers who are the subject of repeated allegations -- whether or not they are sustained -- can be identified for possible retraining. A more active administrative review procedure can help identify, counsel and retrain officers long before four complaints about use of force are filed.

Current practice. Currently the present administrative review policy requires the Internal Investigations Section to notify the bureau commander when an officer has been the subject of five or more investigated complaints in a twelve-month period, or three complaints in a 90 day period.

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Features of an "early warning system." Similar to the Kansas City program, an "early warning system" would require supervisory personnel regularly to review complaints (including contact log complaints) of all personnel under their command. The Internal Investigations Section would prepare, distribute and maintain a quarterly report of all officers who have been identified as the subject of a citizen complaint regardless of the disposition.

Shift supervisors then would review that report. Any officer who has been the subject of three or more complaints in the past two report periods would be required to meet with the precinct or division commander within two weeks from publication of the report. The commander would meet with the officer and the immediate supervisor to discuss the circumstances which may have contributed to the complaint being filed and explore alternatives which may have avoided the complaint.

Instructional Interviews. The discussion between commander and officer would be documented as an Instructional Interview and a copy forwarded to the appropriate bureau commander. At the discretion of the division commander, predicated on the circumstances of the complaints and the receptiveness of the officer to the discussion, the officer may be scheduled for Continuing Professional Education for Police Training Program.

The training program should be mandatory for any officer who has been named in five or more complaints within a two-year period, or who has received a substantiated complaint. Other forms of counseling designed to eliminate complaints from occurring in the future may also be required.

As part of the implementation of this administrative policy, the police department should develop a training program for continuing education of all police officers. Continuing education providing appropriate training in emotional control, restraint in use of force, and effective communication skills, should be a requirement for all police officers on a regular basis.

In a September 10, 1991 New York Times article, Kansas City Police Chief Steven C. Bishop expressed satisfaction with the early warning system and noted that complaints against officers were down by twenty-two percent in 1991, the first decrease in 10 years.

The Police Department also should establish an advisory committee similar to the Kansas City program to monitor all aspects of police use of force and to provide the Chief of Police with observations and recommendations. The ACLU recommends that non-police representatives, in addition to police personnel, participate on the committee.

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9. Make citizen participant on Complaint Advisory Board a voting member.

Currently a Complaint Advisory Board is formed if an officer appeals a disciplinary decision or if the Chief of Police agrees to allow a citizen to appeal his resolution of a misconduct complaint. The Complaint Advisory Board is made up of three high-ranking police officers, appointed by the Chief, and one Guild bargaining unit representative.

Only the Police and Fire Departments, out of all city agencies, have a member of their own respective collective bargaining units participate in management reviews of disciplinary recommendations. In light of current and past concerns about the police complaint process, this practice raises obvious questions of fairness and impartiality.

In cases involving a citizen complaint, a fifth, non-voting, citizen representative is appointed by the Mayor. Frankly, the ACLU questions the efficacy of the citizen appointee. The position appears to be nothing more than window-dressing. In the interest of furthering more accountability than currently exists, the ACLU recommends that the citizen representative be given a vote on this board. There are more compelling public policy reasons to have participation of a voting civilian on the Advisory Board than a voting representative of line officers.

We also recommend that the citizen representative be appointed on a term basis, rather than a case-by-case basis as now exists. Only by participating more than once can the citizen representative develop a useful understanding of the process.

TRUE POLICE ACCOUNTABILITY -- AN INDEPENDENT CIVILIAN REVIEW PROCESS.

The ACLU believes that genuinely effective law enforcement requires the establishment of a truly independent civilian review system. Independent civilian review should include the power to issue subpoenas, conduct investigations, hold hearings and make discipline recommendations. It should issue regular reports providing statistical data and noting any particular trends as well as make recommendations for policy or procedural changes to address identified problems.

The ACLU opposed the creation of the police auditor position in 1991 because it does not contain the key features noted above. And, although Terrence Carroll, who was appointed auditor, is exceptionally well-qualified, the structure of his position does not provide a system that is sufficiently open to allow the complainant to judge whether a grievance has been fairly investigated and resolved.

In the absence of an independent civilian review board, it is all the more compelling to implement changes that can be made in the existing internal process which will build community trust and, in turn, create the conditions for more effective and responsible law enforcement. The recommendations in this report are reasonable steps that the City should immediately pursue.

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Kansas City Police Go After Their 'Bad Boys'

By DON TERRY
Special to The New York Times

KANSAS CITY, Mo. — Lightning slashed across the sky over this city known for its hot barbecue, cool jazz and tough police officers. One officer, Jim Pott, sat in a patrol car watching the storm and talked about his place on what he and colleagues bitterly call "the bad boys list."

The list, a computer printout of 25 officers who have an unusually large number of citizen complaints against them, is part of the Kansas City Police Department's new "early warning sys-

tem" to prevent officers here from using the kind of excessive force that provoked public outrage last spring when a videotape of Los Angeles police officers beating a motorist was made public.

"We want to latch on to the officer who has problems dealing with the public as soon as possible, before they get into bad habits that can cause a lot of problems," said Capt. Dean Kelly, the commander of the internal affairs unit.

He said the first group of bad boys was sent to a special eight-hour class

that used role playing and other methods to help the officers improve their communications skills.

Jim Pott was among the first to be recited in.

"Sometimes I get carried away with the macho image; a lot of us do," Officer Pott said, blowing a cloud of cigarette smoke out the window. "I consider myself an aggressive officer; you have to be. I like messing with the real bad guys. Not too long ago, the unwritten rule was if somebody ran on

Continued From Page A1

"you and you caught 'em, you'd smack 'em one."

"To be honest," he said with a smile, "in the past we got away with quite a bit. But everything is post-L.A. now."

Experts say that in any city a comparatively small group of officers provoke most complaints of excessive force.

Problems of a Few

That was borne out here in a recent departmental study that was ordered by Chief Steven C. Bishop after an alarming string of excessive-force allegations, including the striking of two black clergymen and the televised beating of a suspect after a car chase. The study found that over a three-year period the 25 officers on the list were responsible for more than half of the 600 complaints filed every year against the 1,200-officer department.

Similarly, in Los Angeles, a commission established to investigate the Police Department shortly after the beating last March of the motorist, Rodney G. King, also found a minority but still "significant number of officers who repetitively misuse force."

Even before the Los Angeles incident, the Kansas City Police Department had acted to prevent roughhouse tactics. In his first 14 months on the job, Chief Bishop has forced out 24 of the department's 1,200 officers for bad conduct, a previously unheard-of action. "And I have two more hanging in the wings," he said with a sad, slow sigh.

Protest From Inside

But the Chief's policies have met with resistance from the rank-and-file. Last year, he handed out the stiffest suspension in department history, 120 days without pay when an officer hit a

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baptist minister in the back of the head with the butt of a shotgun during a robbery investigation.

The officer's colleagues held a monthlong work slowdown to protest the action and raised thousands of dollars for the officer by auctioning off the same kind of shotgun he used to strike the minister.

"We as officers felt the Chief had gone way over the line with discipline," Officer Pott said.

Nevertheless, Lawrence W. Sherman, president of the Crime Control

Officers find that communication goes a long way.

Institute in Washington, called the Kansas City department "a model of preventative action to control police use of excessive force."

'On the Right Track'

And Hubert Williams of the Police Foundation, a research group in Washington, said Chief Bishop "was on the right track" by dismissing problem officers.

"Excessive use of force by police officers creates such a cleavage within the community that police departments can almost become dysfunctional in certain areas of a city," Mr. Williams said. "It's critical that police managers send a strong, clear message that this kind of behavior is not tolerable. You have to draw a line and say: 'If you want to be a cop, you have to be one of the good guys, you can't be a bad guy, busting heads.'"

Still, only a handful of departments go as far as Kansas City's has, Mr. Sherman said.

The New York City Police Department has identified and provided counseling for more than 8,200 officers since 1973. Officers receive help through the department's early intervention program for a variety of reasons, including gambling, financial troubles, alcohol abuse, marital problems.

Here in Kansas City, the department's main objective is to correct questionable behavior out on the street. A secondary goal is even harder to achieve: changing attitudes.

'Prejudice That People Carry'

"We've learned we can not necessarily change people," Captain Kelly said. "There is prejudice that people carry with them that we cannot change. But what we can do is make them aware that they have these attitudes and that they have to put them at the back of their minds and carry on business as if they didn't exist or else they can start



David Hutton for The New York Times

In his first year on the job, Chief Steven C. Bishop forced 22 Kansas City, Mo., police officers out of department for bad conduct.

looking for a new job."

The 25 officers on the first list were sent to the special class last April. They used role playing, lectures, videotapes and group discussions to demonstrate ways to communicate better on the street and at home.

In one scenario the class studied, an officer arrives at a home and is greeted by a hostile woman who said she called the police two hours ago to report a burglary and asks, "And where the hell have you been?"

"The bottom line is we teach them an apology by an officer can go a long way to defuse anger," Captain Kelly said. "We teach them that most times that's all people want to hear, that the kind of response that starts trouble is a short, terse response. But policemen in general don't apologize."

The class also teaches the officers to avoid using what Captain Kelly calls "blockers" to communication.

Unapproachable Officers

He said many of the officers on the list wear mirrored sunglasses and other trappings of authority when talking to people. Out on the street, they are humorless and approach the increasingly complex job like 1950's cardboard television characters: just the facts ma'am and no backtalk.

"Authoritarian" is a word the captain used several times to describe them.

Some wear two or three pairs of handcuffs and rest their hands on their guns during even the most routine traffic stops.

"We talk about eye contact, facial expressions, stance," Captain Kelly said. "You rest your hand on your gun; cops don't realize that it offends and even scares people. I don't know how many times I have heard people complain, 'I thought he was going to shoot me for running a red light.'"

Another Taped Beating

The Kansas City plan is part public relations. Months before the Los Angeles incident, police officials here grappled with how to handle "our own Rodney King incident," Chief Bishop said.

Last September, after chasing a van through the streets of the city, several officers yanked the driver, a white man, through the window and began kicking him and beating him with a blackjack-like weapon.

The incident was filmed by a television cameraman who had been following the chase in his own van.

"I think our officers realize now we had a problem with the way we were treating people," the Chief said. "But that was a very small minority of our officers."

Although the Chief's words and actions have encouraged many, there is still a deep sense of caution, a sense that the changes are only temporary. The president of the Kansas City branch of the National Association for the Advancement of Colored People, Herman Johnson, said the department's reputation has been "terrible

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for years and years and years."
 "It's better now," he said. "But there's been trouble before. They clear it up, change some policies but as soon as it quiets down, they go right back to what they were doing."

Pattern Is Crucial

In Kansas City as in other cities, most complaints filed against an officer are never substantiated. And filing a complaint is not an uncommon tactic of some suspects, who hope to derail aggressive but legitimate police work.

But Chief Bishop said a pattern of complaints against an officer, whether substantiated or not, is a good sign that trouble could be developing.

When the first bad boys' list came out, one of the names at the top was that of 31-year-old Officer Kevin Tempel, a thickly muscled eight-year veteran who lifts weights every morning before reporting for duty.

Officer Tempel has been the subject of many citizen complaints, including 10 filed in one two-month period.

While there have been four complaints filed against him so far this year, all came before he officially became one of the bad boys.

"In the past I didn't pay much attention to complaints," he said. "Nobody ever talked to me about them before. Chief Bishop is totally different than anyone we've ever had in that job."

"He's making quite a statement," Officer Tempel added. "I feel more comfortable with the aggressive style, but if you want to keep your job you have to change with the times. And most police officers aren't wealthy. We need our jobs."

Chief Bishop said he was pleased with the program so far. He said in tracking the first group of "bad boys," not one of them had received a complaint. He said that over all, complaints of all kinds against officers are down this year by 22 percent, the first decrease in 10 years.

Complaint records are now checked every month to update the list and commanders are notified anytime an officer has received three or more complaints in a six month period.

Back out on the street where the action is, Officer Pott lit another cigarette, and talked about how he had

moved from his hometown of Grand Rapids, Mich., to Kansas City to pursue his lifelong dream of becoming a policeman.

"I just like the possible excitement of it all," he said. "But I had a real problem with communicating. I think I was a bad listener. I could always talk though. I could always tell people what to do out here or at home."

He said initially he was angry and embarrassed about being on the list but is now happy that he took the class. He said he is more tolerant and open-

minded "and my marriage is 100 percent better."

He said he was fourth on the list after receiving 13 complaints in two years but not of those complaints, he said, has been substantiated.

As he drove down a rain-slicked street, he radioed in about a fallen tree before telling a passenger, "Me and my wife, we had a nice little argument about Rodney King."

"I told her I could understand how the officers could do it," he said, quickly adding, "I didn't condone it."

"But she thought if I could understand, I was condoning it. She was totally sick. She started questioning me a lot about things like that out here. She all of a sudden became a part of the public, condemning me because I was a policeman. That hurt."

The dispatcher's voice broke in: "Man with a gun in his shorts."

Flicking his cigarette out the window, Officer Pott made a U-turn.

And then, heading his cruiser toward the stranger with the gun, he smiled and said, "I love this job."

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